



**House Bill No. 6717**

**Public Act No. 09-15**

**AN ACT CONCERNING THE CAPITOL AREA DISTRICT HEATING AND COOLING SYSTEM.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective from passage*) (a) The Commissioner of Public Works, on behalf of the state, may purchase from TEN Companies, Inc., in accordance with the Asset Purchase Agreement dated November 4, 2008, by and among the state, acting by and through the Commissioner of Public Works, and TEN Companies, Inc., which Asset Purchase Agreement is hereby ratified and approved, the district heating and cooling system that provides heating and cooling service to state facilities within the Capitol District and to other nonstate facilities, as listed in the Asset Purchase Agreement dated November 4, 2008, and which is known as the Capitol Area System, including all assets and property necessary for the operation of said system, as described in the Asset Purchase Agreement dated November 4, 2008. The commissioner may assume all vendor contracts, customer contracts, supplier agreements, and third-party contracts with regard to said system. The commissioner may undertake any obligation and enter into any agreement to accomplish any transaction that is necessary to carry out the provisions of this section or said Asset Purchase Agreement, including the grant or acceptance of any release set forth in said Asset Purchase Agreement.

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(b) To the extent any provision in an agreement executed or assumed by the commissioner pursuant to subsection (a) of this section may be interpreted as waiving the sovereign immunity of the state, including, without limitation, indemnification provisions, such provision is effective and enforceable against the state solely in accordance with its specific terms. Nothing in this subsection shall be construed as a waiver of the sovereign immunity of the state in any other context.

(c) In order to operate the Capitol Area System, the commissioner may: (1) Furnish, from plants located in the city of Hartford, heat or air conditioning, or both, by means of steam, heated or chilled water or other medium; (2) lay and maintain mains, pipes or other conduits; (3) erect such other fixtures as are, or may be, necessary or convenient in and on the streets, highways and public grounds of said city, for the purpose of carrying steam, heated or chilled water or other medium from such plants to the location to be served and returning the same; and (4) lease to one or more corporations formed or specially chartered for the purpose of furnishing heat or air conditioning, or both, one or more of such plants or distribution systems owned by it and constructed or adapted for either or both such purposes.

(d) The Commissioner of Public Works may perform all obligations of the state relating to or arising from any agreement between the state and TEN Companies, Inc.

(e) The Commissioner of Public Works may (1) enter into contracts with third parties for the procurement of energy products and services or for the operation and maintenance of, and repairs and improvements to, the Capitol Area System; (2) provide energy products and services, as produced from said system or distributed by said system, to any buildings owned by, or leased to, the state or any instrumentality of the state; (3) sell energy products and services, as produced from said system or distributed by said system, to the

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owners or tenants of buildings not owned by the state; (4) occupy and use rights-of-way necessary to own, maintain, repair, improve and operate said system in and on the streets, highways and public grounds of the city of Hartford, on all property owned by the state and on property where the system is located, and to serve public and private end-use customers; (5) lay and maintain mains, pipes or other conduits, and erect such other fixtures as are, or may be, necessary or convenient in and on the streets, highways and public grounds of said city, for the purpose of carrying energy products to the location to be served and returning the same; and (6) enter into contracts with third parties for the procurement of other products and services, and provide or sell other products or services to the state or to the owners or tenants of buildings not owned by the state, that are being produced, provided or distributed through said system, or any part thereof, prior to, or as of, the effective date of this section.

(f) The Commissioner of Public Works may: (1) Grant easements with respect to land owned by the state in connection with the operation of the Capitol Area System, subject to the approval of the agency having supervision of the care and control of such land and the State Properties Review Board; (2) acquire easements with respect to land not owned by the state in connection with said system, subject to the approval of the State Properties Review Board; (3) enter into leases for any type of space or facility necessary to meet the needs of operating said system, subject to the approval of the State Properties Review Board; and (4) when the General Assembly is not in session, the commissioner may, subject to the provisions of section 4b-23 of the general statutes, purchase or acquire for the state any land, or interest therein, if such action is necessary for the operation of said system. The commissioner shall provide notice of any easement granted pursuant to subdivision (1) of this subsection to the chief elected official of the municipality and the members of the General Assembly representing the municipality, in which such land is located.

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(g) The Commissioner of Public Works may establish and administer an account to be known as the Public Works Heating and Cooling Energy Revolving Account, which shall be used for: (1) The deposit of receipts from the sale of Capitol Area System energy products and services to state agencies or to the owners or tenants of buildings not owned by the state, and (2) for the payment of expenses related to the operation, maintenance, repair and improvement of the Capitol Area System. The commissioner may expend funds necessary for all reasonable direct expenses related to said account.

(h) For the provision of energy products and services, the Commissioner of Public Works shall periodically invoice and collect a pro rata share of the costs described in this subsection from each state agency and owner or tenant of the buildings on the Capitol Area System that are not owned by the state, to the extent not prohibited by contracts in effect as of November 4, 2008. The Commissioner of Public Works shall periodically submit proposed rate setting methods and proposed rates to the Secretary of the Office of Policy and Management for the secretary's approval. No such method or rate shall be effective without the secretary's approval. Rates shall be based on: (1) A pro rata share of all costs of acquiring the system, including all costs for legal and consultant services; (2) a pro rata share of the cost of such energy products or services, whether produced by the state or purchased from third parties; (3) a pro rata share of any and all costs of operating, maintaining and repairing said system, including the cost of services provided by vendors and the cost of equipment; (4) a pro rata share of an amount determined to be necessary for long-term capital improvements or replacement, which amount shall be specifically identified in the Public Works Heating and Cooling Energy Revolving Account, and allocated for long-term capital improvements or replacement; (5) a pro rata share of the Department of Public Works' personnel costs related to the operation, maintenance, repair and improvement of the Capitol Area System, provided not more than one

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full-time employee of the department shall be allocated to the system; and (6) a pro rata share of the cost of other products or services incurred and permitted by this section. Not more than forty-five days after receipt of a proposed rate setting method or a proposed rate from the commissioner, the Secretary of the Office of Policy and Management shall approve or disapprove such proposed method or rate. If the secretary fails to act on such proposed method or rate within such period, the commissioner's proposal shall be deemed to have been approved. On a quarterly basis, the Commissioner of Public Works shall transmit to the General Fund any portion of the costs that are attributable to the provisions of subdivision (1) of this subsection.

(i) Nothing in this section shall be construed to limit the use of the Capitol Area System by the state to its use or functional capacity as of the date of its purchase by the state.

(j) Except as expressly required by the provisions of this section, the acquisition of the Capitol Area System by the Commissioner of Public Works, and any transaction necessary for such acquisition, shall not be subject to any other review, approval or authorization by any other state agency, board, department or instrumentality and shall not be subject to any otherwise applicable sales or conveyance tax or taxes.

(k) Nothing in this section shall be construed to prohibit the state from reselling the Capitol Area System to a third party if it is determined that such resale is in the best interest of the state.

Sec. 2. Section 3 of number 7 of the special acts of 1961, as amended by special act 97-1, is amended to read as follows (*Effective from passage*):

(a) Said corporation is authorized and empowered, either directly or through the agency of its parent, a subsidiary or an affiliate: To furnish, from plants located in the city of Hartford, heat or air

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conditioning, or both, by means of steam, heated or chilled water or other medium; to lay and maintain mains, pipes or other conduits, and to erect such other fixtures as are or may be necessary or convenient in and on the streets, highways and public grounds of said city, for the purpose of carrying steam, heated or chilled water or other medium from such plants to the location to be served and returning the same; and to lease to one or more corporations formed under the general law or specially chartered for the purpose of furnishing heat or air conditioning, or both, one or more of such plants or distribution systems, or both, owned by it and constructed or adapted for either or both of such purposes.

(b) Said corporation or its parent or successor may sell to the state the district heating and cooling system, known as the Capitol Area System, that provides heating and cooling energy products or services to buildings owned by the state and to privately owned buildings. Such sale shall include all assets and property relative to or necessary for the operation of said system, as described in the Asset Purchase Agreement dated November 4, 2008, relating to such sale.

Sec. 3. (*Effective from passage*) (a) For the purposes described in subsection (b) of this section, the State Bond Commission shall have the power, from time to time, to authorize the issuance of bonds of the state in one or more series and in principal amounts not exceeding in the aggregate ten million six hundred thousand dollars.

(b) The proceeds of the sale of said bonds, to the extent of the amount stated in subsection (a) of this section, shall be used by the Department of Public Works for the purpose of the sale provided for in section 1 of this act, for the Capitol Area System and the assets and property of TEN Companies, Inc., related to said system, as set forth in the Asset Purchase Agreement between TEN Companies, Inc., and the state of Connecticut dated November 4, 2008.

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(c) All provisions of section 3-20 of the general statutes, or the exercise of any right or power granted thereby, which are not inconsistent with the provisions of this section are hereby adopted and shall apply to all bonds authorized by the State Bond Commission pursuant to this section, and temporary notes in anticipation of the money to be derived from the sale of any such bonds so authorized may be issued in accordance with said section 3-20 and from time to time renewed. Such bonds shall mature at such time or times not exceeding twenty years from their respective dates as may be provided in or pursuant to the resolution or resolutions of the State Bond Commission authorizing such bonds. None of said bonds shall be authorized except upon a finding by the State Bond Commission that there has been filed with it a request for such authorization which is signed by or on behalf of the Secretary of the Office of Policy and Management and states such terms and conditions as said commission, in its discretion, may require. Said bonds issued pursuant to this section shall be general obligations of the state and the full faith and credit of the state of Connecticut are pledged for the payment of the principal of and interest on said bonds as the same become due, and accordingly and as part of the contract of the state with the holders of said bonds, appropriation of all amounts necessary for punctual payment of such principal and interest is hereby made, and the State Treasurer shall pay such principal and interest as the same become due.

Sec. 4. (*Effective from passage*) (a) For the purposes described in subsection (b) of this section, the State Bond Commission shall have the power, from time to time, to authorize the issuance of bonds of the state in one or more series and in principal amounts not exceeding in the aggregate one million dollars.

(b) The proceeds of the sale of said bonds, to the extent of the amount stated in subsection (a) of this section, shall be used by the

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Department of Public Works for the transactional costs related to the purchase of the Capitol Area System, as provided in section 1 of this act, including the state's insurance costs, the state's legal fees, reimbursement to TEN Companies, Inc., for prepaid property taxes, a reasonable amount for start-up funding for the Public Works Heating and Cooling Energy Revolving Account, as established in section 1 of this act, and for the purchase and installation of pipe necessary for the operation of the Capitol Area System, including the cost of pipe and its installation as the interconnection between the supply and return lines of the Capitol Area System at or near the point of interconnection between the Capitol Area System and TEN Companies, Inc.'s other district energy system located in the downtown area of the city of Hartford.

(c) All provisions of section 3-20 of the general statutes, or the exercise of any right or power granted thereby, which are not inconsistent with the provisions of this section are hereby adopted and shall apply to all bonds authorized by the State Bond Commission pursuant to this section, and temporary notes in anticipation of the money to be derived from the sale of any such bonds so authorized may be issued in accordance with said section 3-20 and from time to time renewed. Such bonds shall mature at such time or times not exceeding twenty years from their respective dates as may be provided in or pursuant to the resolution or resolutions of the State Bond Commission authorizing such bonds. None of said bonds shall be authorized except upon a finding by the State Bond Commission that there has been filed with it a request for such authorization which is signed by or on behalf of the Secretary of the Office of Policy and Management and states such terms and conditions as said commission, in its discretion, may require. Said bonds issued pursuant to this section shall be general obligations of the state and the full faith and credit of the state of Connecticut are pledged for the payment of the principal of and interest on said bonds as the same become due, and



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accordingly and as part of the contract of the state with the holders of said bonds, appropriation of all amounts necessary for punctual payment of such principal and interest is hereby made, and the State Treasurer shall pay such principal and interest as the same become due.

Approved April 23, 2009